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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,471	12/30/2003	Cindy Lou Price	17006	7085
23556	7590	12/22/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			COLE, ELIZABETH M	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 12/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,471

Applicant(s)

PRICE, CINDY LOU

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/14/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. Applicant's election without traverse of the species wherein the first elastomeric polymer has the general formal ABA' wherein A and A' are thermoplastic polymer end blocks comprising a styrenic moiety and where Bi is an elastomeric polymer midblock such as a conjugated diene or a lower alkene polymer and wherein the second elastomeric material comprises polyurethane in the reply filed on 10/14/05 is acknowledged. It is noted that claims 5,6 and 14 are drawn to the non-elected embodiment and therefore these claims are withdrawn from consideration.

2. Claims 1 —4, 7, 13, 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "wherein a portion of the second elastomeric fibers or filament is at least partially conjoined to a first elastomeric fiber or filament at one or more points along the length of each of the second and first fibers or filaments". This limitation is indefinite because it refers to "a portion" of the second elastomeric fibers but also states that the second elastomeric filaments is at least partially conjoined to the first "along the length of each of the second and first fibers". It is not clear whether the "each" refers to just those first and second fibers which are in the portion which has bonding, or if requires that each of the second fibers in the portion which is bonded to first fibers be bonded to each first fiber in the entire layer, or if it requires that of those fibers in the portion that is bonded that with regard to those second fibers they are bonded to at least one first fiber. The claimed structure is not clear. For purposes of the art rejection below, it will be assumed that the

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claimed structure comprises a portion of the second elastomeric filaments which are bonded at least once along their lengths to at least one elastomeric first fiber.

3. Claims 4 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 4 and 13, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

4. Claims 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 17 and 18, it is not clear what is meant by "low" tension, "high" stretch. What values would be considered high or low?

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 7-10, 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by May et al, U.S. Patent Application Publication No. 2002/0009940. May et al discloses an elastic laminate comprising a fibrous layer and supporting layer(s). The fibrous layer may comprise first elastomeric filaments 12 and second elastomeric filaments 16. See paragraph 0048 and 0049. The polymeric material making up the first and second elastomeric filaments are different and can be the claimed components.

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See paragraphs 0058-0064. The first and second elastomeric filaments can be extruded so that the second elastomeric filaments are deposited on the first filaments. Due to the filaments being molten, at least a portion of the second elastomeric filaments would necessarily be at least partially conjoined to a first elastomeric filament at one or more points along the length of each of the second and first fibers or filaments. The first and second filaments can be arranged within the layer so that some regions only comprise one type of filament. See paragraph 0078. The elastomeric fibrous layer is bonded to a facing layer or layers. See paragraph 0073. The laminate can be formed into various personal care articles. See paragraph 0095-0096. The different regions of the elastomeric fibrous layer can have different or the same elastic tensions. See paragraph 0076.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2,3,11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over May et al, U.S. Patent Application Publication No. 2002/0009940. May et al discloses an elastomeric material as set forth above. May et al differs from the claimed invention because May et al does not disclose the claimed number of second elastomeric filaments which are joined to the first elastomeric fibers in a particular region. However, since May teaches depositing the second molten filaments on the first

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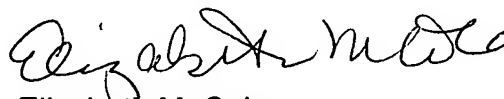
filaments and further teaches that the numbers of each type of filament can be varied depending on the degree of elasticity desired, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the ratio of first and second filaments in a particular area through the process of routine experimentation in order to arrive at a laminate having the desired degree of elasticity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c